

# THE POLICE ACT OF 1966

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Security of life, liberty and property is the primary concern of a democratic system. Democracy subsists on the trust of the citizens that their individual freedom will be protected and their rights defended against those who transgress them. The ordinary citizen looks to the uniformed policeman as the protector of his rights and as the symbol of justice. Lately, however, the police system in our country has so deteriorated that the policeman's badge has been used by the unscrupulous to shield crime. The state of Philippine society is such that "no longer can the welfare of our society permit the only requirement of a law enforcement officer to be a badge, a night stick and a gun."<sup>1</sup>

In 1965, 723 policemen were involved in criminal cases ranging from physical injuries to murder. Seventy-five policemen were involved in the crimes of murder and homicide, 38 in the crimes of physical injuries, 14 in theft, 11 in sex offenses and 425 in other crimes.<sup>2</sup> For the month of November 1966 alone, 167 policemen were involved in crimes ranging from extortion to rape.<sup>3</sup>

The involvement of an alarming number of policemen in crimes has necessitated a thorough analysis of the problems in the police force, which were found to consist mainly in the following: *first*, the financial problem of equipping and training a modern urban police department to keep pace with the needs of the community and *second*, politics in the police force.<sup>4</sup>

The purpose of this paper is to show how the New Police Act tries to solve these two main problems which beset local police forces throughout the country.

## *Financial Problems:*

Appropriations for the local police force are made by the local city or municipal councils. Thus, the less income the city or municipality gets, the less modern are the facilities and the lower are the salaries of the policemen. As a consequence, the low-income cities or municipalities provide less benefits and less incentives to

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<sup>1</sup> Hess, *Police Training-Small Communities*, 46 J Crim L, 5 (1958):

<sup>2</sup> NBI Compilation of Crimes, Series of 1965.

<sup>3</sup> NBI Compilation of Crimes, Series of 1966.

<sup>4</sup> Ashburn, *Some Police Problems and Paradoxes in Manila*, 1 Lipunan, 17, 23 (1965).

their policemen, who in turn, resort to all forms of activities to add to their income.

To curb these activities, Congress has enacted the Police Act of 1966 which provides for death, disability and sickness benefits in addition to already existing benefits received from the Government Service Insurance System;<sup>5</sup> minimum salaries of policemen depending on the category of their respective cities and municipalities;<sup>6</sup> an appropriation from the National Treasury of funds not otherwise appropriated in the amount of twenty million pesos for underwriting the compensation of the local police forces; and benefits for study grants and scholarships. A Police Commission is also created.<sup>7</sup>

While apparently providing for solutions, in reality, the law does not materially alleviate the plight of local policemen.

It is a fact that funds in the National Treasury are seldom not otherwise appropriated. On the other hand, local executives may have under their control discretionary funds which can readily and more practically be applied to the payment of salaries and benefits under the Act. Furthermore, if the budget for the different departments of the Government can run up to millions of pesos, why not provide for a regular item in the National Budget for the purposes mentioned in section 22 of the Act?

Peace and order in the country cannot be maintained by providing appropriations of millions of pesos for the national defense, without providing separately for the local police forces. The everyday life of the ordinary citizen is the theatre of democracy, such that if the very persons sworn to uphold the law were the very first to break it, the confidence of the ordinary citizen in a democratic system would be undermined, no matter how well conceived the programs of government.

The financial problem is specially acute in police training. Presently, there are two national police academies, that of the National Bureau of Investigation and the Philippine Constabulary. Since the last world war, the two academies have produced 2,341 and 7,730 graduates respectively.<sup>8</sup> These numbers alone indicate the magnitude of financial problems, specially with respect to classrooms, salaries for instructors, expenses for quarters and other expenses for the maintenance of these schools.

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<sup>5</sup> Rep. Act No. 4864 (1966), Sec. 21.

<sup>6</sup> *Id.* at Sec. 20.

<sup>7</sup> *Id.* at Sec. 22.

<sup>8</sup> Bornales, *Our Police Forces Today*, 32 *Graphic*, Dec. 2, 1964, p. 22.

The national government should make annual appropriations for academies, not only for the national police academies but also for the local police academies which may be established or situated in the different cities throughout the Philippines in order to facilitate training programs for policemen. With respect to local police academies, the government, to encourage their establishment, should first subsidize them, with local governments shouldering their share of the expenses.

The City of Manila and Quezon City have taken the initial step to establish their own police academies. The importance of police academies cannot be overemphasized. According to Hess:

"...police service may well not be considered as a profession until such time as well-developed training programs are provided for the police that are comparable to those that prepare persons for the recognized profession such as law..."<sup>9</sup>

#### *The Political Problem:*

In the Philippines, of a total number of more than 10,329 policemen, only 3,266 are civil service eligibles and more than 7,063 are non-eligibles, which number comprises at least 60 per cent of the total number of policemen.<sup>10</sup>

Since only civil service eligibles<sup>11</sup> are qualified for permanent appointments, the non-eligibles can only be appointed temporarily in the police force; as such, their services are left to the discretion of the appointing power, to the extent that other non-eligibles may be appointed to replace them.<sup>12</sup>

This, according to one writer, is "...the much abused power which politics wields at every change of administration, without due regard to the expense of training, the value of experience, the efforts of selection and screening and the good-standing of the non-eligible peace officer, which cuts deeply into the continuity of efficient police service more than anything else . . ."<sup>13</sup>

<sup>9</sup> Hess, *op. cit.*, *supra*, note 1 at 1.

<sup>10</sup> Polcom, Statistical Compilation, Series of 1967.

As of this writing, not all the cities and municipalities had as yet filled out Polcom Form No. 2-A which required the listing of total number of policemen in the police force, and total number of civil service eligibles.

<sup>11</sup> Certain persons who have not taken the civil service examination for policemen are considered civil service eligibles for the purposes of this Act if:

- 1) at the time of the approval of the Act, they have rendered at least five years of satisfactory service in a provincial, city or municipal police agency, or
- 2) if they have passed the bar examinations which are declared by the Act as civil service examination for purposes of original and promotional appointment.

<sup>12</sup> *Sigue v. Pabaya, et al.*, G.R. No. 11717, Dec. 27, 1959.

<sup>13</sup> Lazaro, *An Analytical Study of Local Police Problems*, 3 Phil. Eco. Bul., 33 (My-Je 1965).

So long as there are policemen in the force whose tenures depend on the pleasure of the appointing power, independence of the police force can never be realized. These appointees, believing that they owe a debt of gratitude to the mayor and the municipal council, often seek to repay favors by yielding to the wishes of these appointing officials. If they should refuse, they may find themselves removed from their positions.

The practice of temporary appointment of non-eligibles to the police force continues to be the main obstacle to efficiency in the task of law enforcement. As already stated, the non-eligibles must retain the favor of the appointing power or else face removal from the force. On the other hand, law and order demand the temporary appointment of non-eligibles owing to the dearth of police civil service eligibles. It seems, therefore, that for the purpose of maintaining peace and order in a local community, the presence of policemen is indispensable, whether they be civil service eligibles or not.

The solution to the problem lies in efforts to attract civil service eligibles to the police ranks. If the value of police work is to be placed on the same level as those of other professions, the salary level should at least compare with those received by other professionals. Better incentives should be provided. This is being done in Malaysia; only in this way can we see a police force free from the tentacles of politics.

Before the Police Reform Act of 1966, political influence existed not only in appointments but also in the removal of members from the police force. Under Republic Act 557, administrative charges are filed by a mayor with the municipal council which investigates and decides the charges. The discretion of a mayor to file formal charges or not places him in a strong bargaining position which he utilizes to compel policemen to yield to his favors; and the power given to a municipal council to investigate the charges and decide the case proves to be one of the causes for delays in its determination, since a municipal or city council somehow seldom finds enough time to investigate the charges.

The provision of Sec. 1 of Republic Act No. 557 that the charges shall be investigated by the municipal council is mandatory and, therefore, if the investigation is conducted merely by a committee, the proceedings are void even if the decision is concurred with by the rest of the councilors. In one case, it was held that the mere fact of loss of records of the case was no valid justification to disregard the mandate of the law.<sup>14</sup> When the municipal

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<sup>14</sup> *Atel v. Lomuntad*, G.R. No. 19574, July 30, 1965.

council mustered the quorum and proceeded to investigate and decide the case, the policeman charged frequently managed to get one, if not all, of the councilors to intercede on his behalf with their colleagues. It is not surprising therefore, that in Quezon City, for the month of November 1966 alone, of ninety-nine cases against policemen submitted to the municipal council, not one policeman has yet been found guilty.<sup>15</sup>

No less than our Supreme Court criticized the defects of Republic Act 557 when, through Mr. Justice Jose Bengzon, it observed:

"It is not surprising but quite understandable that the Commissioner sought to curtail the evils of the present system under Republic Act No. 557 since it has been time and time again severely criticized as an unwise legislation that rendered our policemen captives of politics or politicians..."<sup>16</sup>

The issue in the above-cited case was whether the Civil Service Act of 1959 impliedly repealed Republic Act 557 and Section 22 of Republic Act 409 insofar as suspension and removal of appointive city officers or employees not appointed by the President were concerned.

The Court held that Republic Act 557 had not been expressly repealed by Republic Act 2260. The power of the Commissioner of Civil Service to finally pass upon the officers and employees concerned presupposes an original power in certain officials, in this case, the mayor and the municipal council, to suspend and remove the persons concerned.<sup>17</sup>

In answer to the public clamor for a better law, Congress passed Republic Act 4864, otherwise known as the Police Act of 1966, which was approved on September 8, 1966.

Under the Act, the Police Commission is vested with the power of suspension and removal of local policemen. A Board of Investigators established in every local police agency conducts the investigation of charges, after which it makes recommendations, without rendering any decision, to the Police Commission.<sup>18</sup>

The law also provides that the decision of the Police Commission is final and unappealable.<sup>19</sup> This does not mean, however, that a policeman who feels that an injustice has been done to him

<sup>15</sup> Albert, *The Cause of Police Anomalies*, 1 *Weekly Nation*, May 9, 1966, p. 14.

<sup>16</sup> *Villegas v. Subido*, G.R. Nos. 24012 & 24040, Aug. 9, 1965, 61 O.G. 7135 (Nov., 1965).

<sup>17</sup> *Supra*.

<sup>18</sup> Rep. Act No. 4864 (1966), Sec. 15.

<sup>19</sup> *Ibid*.

is without any remedy. Under Section 1, Rule 65 of the Rules of Court it is provided:

"Petition for certiorari...When any tribunal, board or officer exercising judicial functions has acted without or in excess of its or his jurisdiction, or with gross abuse of discretion and there is no appeal, or any plain, speedy and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceeding as the law requires of such tribunal, board or officer."

The Police Commission is a body exercising judicial functions. It is not, however, a court limited in its functions but an administrative tribunal. Therefore, it is not confined by the application of strict legal rules governing trials in the courts of law.<sup>20</sup>

*Removal or Suspension of the Chief of Police:*

In the case of *Claravall v. Paraan*, decided by the Supreme Court under Republic Act 557, it was decided that the grounds for removal and suspension of members of the local police force did not apply to the chief of police, since the phrase "members of the police force" did not embrace chiefs of police. Construing the different provisions in Republic Act 557, the court stated that Section 3 of such Act, which empowers the mayor to suspend the chief of police, is superfluous.<sup>21</sup>

The decision of our court in that case conforms to the rule in the United States that the term "policeman" when used as a generic term, may equally apply to any member of the police force whatever his rank or station except when the officers and men are carefully segregated from each other in meaning by apt terms of distinctive designation.<sup>22</sup>

Sections 14 and 16 of the New Police Act, which correspond to the controversial provisions of Republic Act 557, do not separately provide for suspension of members of local police forces and chiefs of police; rather, it uses the phrase "members of the local police agency" without any distinction as to rank. Consequently, it can now be said that the ruling in the case of *Claravall v. Paraan* no longer holds and, therefore, the grounds for removal and suspension of members of local police forces apply equally to chiefs of police.

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<sup>20</sup> CJS 1054.

<sup>21</sup> 100 Phil. 476 (1956).

<sup>22</sup> 32 Words and Phrases.

*Overlapping Police Functions:*

In the Philippines, the task of maintaining peace and order falls not only on the shoulders of local police forces but also on the Philippine Constabulary, whose members are peace officers authorized and empowered to prevent and suppress breaches of peace and violations of law.<sup>23</sup> The National Bureau of Investigation, whose members are peace officers, is likewise empowered to undertake investigation of crimes and other offenses against the laws of the Philippines on its own initiative and whenever public interest requires it.

The overlapping functions of police work have led to many conflicts among these different agencies. The murder of the Mayor of Olongapo was but one of the instances where the need for coordination between these agencies was demonstrated. Each of these agencies so claimed jurisdiction over the case that the widow of the Mayor was forced to appeal to the President to interfere so that speedy justice may be meted out.

The conflict becomes more acute when a local police force is subjected to military interference, either by Philippine Constabulary<sup>24</sup> assistance or Philippine Constabulary control. PC assistance is given when peace and order in a locality cannot be maintained due to either the inadequacy of the training or the inefficiency of the local policemen. PC control is imposed when the local police force has so deteriorated that crimes remain unchecked or when the police becomes a political tool of a controlling political faction.

When a local police force is placed under PC control, the mayor is completely relieved of his power to control and supervise the police department by the PC Provincial Commander in that province, who is, in turn, responsible to the Provincial Governor. The chief of police thus remains powerless over his men who are constrained to take their orders from the PC.

An indefinite Philippine Constabulary control over a particular locality not only breeds inefficiency but generates conflicts between the Philippine Constabulary and the local police. The Philippine Constabulary commander who takes over the locality would naturally entrust the task of maintaining peace and order to his own men. Local policemen are thus relegated to the background. Whenever the chief of police or the mayor gives orders which the Philippine Constabulary revokes, bitterness results and aggravates the situation.

<sup>23</sup> Rev. Adm. Code (1955), Sec. 828.

<sup>24</sup> Hereafter referred to as PC assistance and PC control.

Due to the number of problems posed by several agencies performing police functions, there is a need for a body which will coordinate and delineate the jurisdictions of the agencies concerned. That body appointed to keep the smooth operation of local police machinery should see to it that, in order not to delay the prosecution of criminals, these agencies spend less time wrangling over their respective jurisdictions. Likewise, in its investigation of localities placed under Philippine Constabulary control, it should provide for definite definitions of such matters as rights, duties, duration and extent of Philippine Constabulary control.

*The Police Commission:*

A Police Commission directly under the Office of the President<sup>25</sup> was established under the Act to perform adjudicative functions such as deciding administrative cases against policemen,<sup>26</sup> claims for sickness, death and disability benefits,<sup>27</sup> and disputes between mayors and city or municipal councils regarding appointments of members of the local police and chiefs of police, and in case of municipalities, where such disputes continue for a period of ninety days.<sup>28</sup>

While the Commission is given the duty to achieve and attain a higher degree of efficiency in the organization, administration and operation of local police agencies, the Act does not contain any provision which clearly defines the extent of powers of the commission over the local agencies.

The recent controversy between the Mayor of Manila and the Chief of Police is a case in point. Immediately after its creation, the Police Commission issued a memorandum circular which stated:

"...Subject to the supervision and control of the Police Commission, the Chief of Police of all cities and municipalities are hereby authorized to immediately undertake measures to improve the organization, administration and operation of the respective police forces with the end in view of achieving greater efficiency and effectiveness in the campaign against all forms of criminality..."<sup>29</sup>

The circular was issued pursuant to the power given to the Commission to prepare a police manual prescribing rules and regulations for the efficient organization, administration and opera-

<sup>25</sup> The placing of the Police Commission directly under the Office of the President was justified on the ground that police problem is not a mere local problem but a national one, thereby necessitating the use of the broad powers of the President.

<sup>26</sup> See Note 18, *supra*.

<sup>27</sup> See Note 5, *supra*.

<sup>28</sup> Rep. Act No. 4864 (1966), Sec. 8.

<sup>29</sup> Polcom Memorandum Circular, No. 1, (1966).



tion of the local police, including their recruitment, selection and promotion.<sup>80</sup>

Pursuant to the circular, the Chief of Police of Manila proceeded to organize the Manila Police into sub-precincts. This was opposed by the Mayor on the grounds that under the City Charter, he had control and supervision over the police department, and consequently, whatever plan of reorganization affected the police department must be carried out only with his consent. Unfortunately, before the controversy could reach the courts, the Chief of Police abandoned his plan and conceded to the demand of the Mayor.

Thus, it was actually the authority of the Police Commission over the Manila Police Department which was in question. Had the Police Act clearly defined the power of the Commission over police departments, there would have been no question as to whether chiefs of police were fully authorized to reorganize their departments. Inasmuch as that power of mayors over their police departments has not been repealed by the Police Act, mayors continue to be the power behind police departments.

The nature of a police commission as a body was discussed in the case of *State ex rel. Goings v. City of Great Falls*. The court said:

"...the legislature, by providing...for examination for the police positions by the police commission, for unlimited tenure and removal only upon filing of charges and hearing before the commission, and by broad general powers given the commission intended that the commission should not be a body of only advisory powers, but that it should be a body of considerable importance, whose finding should have weight..."<sup>81</sup>

That Congress did not intend to make the Police Commission merely an advisory body is apparent from the different provisions in the Act vesting the Commission with broad powers to achieve efficiency in the local police forces. However, the exercise of such powers will inevitably lead to controversies so long as the extent of authority of the commission over the local police forces is not clearly defined.

#### *Conclusion:*

It is therefore necessary that, to enable the Police Commission to realize the task imposed upon it by law, Congress must vest in the commission the powers of control, supervision and coordination

<sup>80</sup> Rep. Act No. 4864 (1966), Sec. 4(c).

<sup>81</sup> 153 Kan. 469, 112 P. 2d 107 (1941).

over the local police agencies, thereby removing the latter from the grip of politics; for only in such a way can efficiency and professionalism be achieved in the country's police forces.

The policeman, it must be noted, is not a mere city or municipal employee; he is an officer *sui generis*<sup>32</sup> sworn to enforce the law, and as such must be guided not by politics, not by personalities, not by fear but by principles of law and justice.

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<sup>32</sup> State ex rel. Quintin v. Edwards, 38 Mt. 250, 99 p., 940 (1909).